

DATE: February 14, 2019

TO: Candidates for the Atlanta City Council District 3 Seat

FROM: Foris Webb, III
Election Superintendent
Office of Municipal Clerk

SUBJECT: ALERT #1 - Campaign Sign Right of Way Laws

Candidates:

It is imperative that you adhere to the Campaign Sign Right of Way Laws. This and all other election information regarding the 2019 City of Atlanta Special Election may be found on the Atlanta City Council Website at <http://citycouncil.atlantaga.gov/council-divisions/municipal-clerk/2019-city-of-atlanta-special-election>. The laws are attached and listed below:

Campaign Sign Right of Way Laws

- Sec. 138-13. - Affixing Signs Within Right-of-Way
- Sec. 16-28A.012. - Signs in the Public Right-of-Way
- Sec. 16-28A.013. - Procedures
- Sec. 16-28A.014. - Nonconforming Signs

Sec. 138-13. - Affixing signs within right-of-way.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "*Affix*" shall mean the act of tacking, nailing, posting, gluing, painting, stapling, marking or writing upon the surface of any structure or directing, authorizing or paying another to do such act.

(2) "*Public property*" within the public right-of-way shall mean the area lying within the dedicated or prescriptive easement of any street or road located within the city, whether improved or not, including sidewalks, ditches, drains, the tree lawn areas between detached sidewalks and streets, roadway medians, parkways, bridges, utility poles and boxes, street signs and sign poles.

(3) "*Sign*" shall mean any material containing printed or written matter in words, symbols, pictures, or any combination thereof, including, but not limited to flyers, handbills, pennants, posters, and streamers.

(4) "*Special event sign*" shall mean any temporary sign which shall advertise or promote any meeting, event, gathering, function, entertainment or other activity scheduled for a particular date or series of consecutive days.

(b) *Signage prohibited.* Except as provided in this section, it shall be unlawful to post or affix signs on public property within the public right-of-way.

(c) *Exceptions.* Nothing in this section shall apply to the installation of the following:

- (1) Metal plaques or plates commemorating a historical, cultural or artistic event, location or personality;
- (2) Signage identifying licensed franchisees of the city or indicating the presence of workers of permitted utilities and their facilities or equipment within or immediately adjacent to the right-of-way;
- (3) Signage identifying or directing vehicular or pedestrian traffic to or from property immediately adjacent to the signage when displayed on structures under the ownership or control of the property owner or lessee;
- (4) Signage providing public transportation information;
- (5) Signage providing direction to governmental facilities, hospitals or houses of worship;
- (6) Signage affixed pursuant to permits issued by governmental entities having authority to do so;
- (7) Signage used to provide for the safety of individuals using the public right-of-way or immediately adjacent property;
- (8) Flags, banners, bunting, signs, displays or other forms of decoration which are displayed in conformance with and permitted by section 138-60; or
- (9) Commercial advertisements which are displayed in and on bus shelters in conformance with the requirements of O.C.G.A. § 32-6-51.

(d) *Removal.* Any signs found upon any public property, not in compliance with this section, may be removed by the city. The person(s) responsible for causing the unlawful sign to be placed on any public property may be held responsible for the cost of removal. These persons shall include, but are not limited to, any individuals or businesses whose advertisement, message or information appears on or is contained in any sign or notice unlawfully placed on public property.

(e) *Special event signage.* Any special event signs found upon any public property may be removed by the city. The person(s) responsible for causing the unlawful special event sign to be on public property may be held responsible for the cost of removal. In addition, the person(s) responsible for causing the unlawful special event sign to be on public property shall be subject to a minimum of three days in jail. These persons shall include, but are not limited to, any individuals or business whose special event appears on or is contained in any special event sign or notice unlawfully placed on public property and any individual responsible for authorizing, directing, or paying persons who unlawfully place special event signs on public property.

(f) *Citations.* Any person violating this section shall receive a citation. The citation shall state the date, location, and brief description of the violation. The citation penalty may be paid prior to the assigned court date, in the amount of \$100.00 per violation to cover the removal of the unlawfully placed sign. Payment may be made as directed by the citation. Upon a third, and subsequent, violation, the person cited must appear in court.

(g) *Penalties.* Any person violating this section shall be subject to one or more of the following penalties:

- (1) A fine not to exceed \$1,000.00 upon appearance before the judge of the municipal court, for each unlawfully placed sign or special event sign;
- (2) Imprisonment for a term not exceeding five days.

Fines that remain unpaid after 60 days will automatically trigger a separate violation, resulting in the responsible person(s) being subject to the penalties provided in this chapter, in addition to the original fines and/or jail time.

(h) *Enforcement.* Any person empowered by the City of Atlanta to issue citations may enforce the provisions of this section.

(Code 1977, § 9-3012; Ord. No. 2001-22, § 1, 3-14-01; Ord. No. 2004-36, § 1, 6-24-04; Ord. No. 2006-77, § 1, 11-14-06)

Cross reference— Signs generally, § 6-26 et seq.

Land Development Code Reference— Supplemental zoning provisions pertaining to signs, § 16-28A.001 et seq.

Sec. 16-28A.012. - Signs in the public right-of-way.

(a) No sign shall be allowed in the public right-of-way except as follows or as otherwise permitted by the Code of Ordinances, and all other prohibitions and regulations governing signs in public rights-of-way and upon public property in the Code of Ordinances, including but not limited to section 138, also shall apply:

- (1) Signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
- (2) Bus stop signs erected by a public transit authority.
- (3) Informational signs of a public utility identifying its poles, lines, pipes or other facilities.
- (4) Awning, projecting and suspended signs projecting over a public right-of-way when in conformity with all other requirements of the Code of Ordinances and this chapter, including section 16-28A.007(e).
- (5) Banners within the public right-of-way that are authorized by and approved under section 138-60 of the Code of Ordinances of the City of Atlanta.
- (6) Temporary emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.
- (7) Signs that are attached to bus shelters subject to the provisions of section 138-43 of the Code of Ordinances. Signs attached to street furniture such as trash cans, benches, kiosks, and streetcar shelters owned and/or operated by governmental units or public authorities. Temporary changing signs, not to exceed 30 days, as part of a city-sponsored program in connection with entertainment events meeting the criteria set forth in section 16-28A.010(12)l.(1)(i—iv).
- (8) Newspaper vending devices that are authorized by and approved under division V of Article II of section 138 of the Code of Ordinances of the City of Atlanta.
- (9) Building identification signs pursuant to section 16-02.019(7) and section 16-02.019(8).
- (10) Neighborhood identification signs, limited to two such signs per street entrance, shall be permitted.

(b) Any sign installed or placed on public property or right-of-way except in conformance with the requirements of or references in this section shall be deemed to be an illegal sign and shall be immediately removed by the owner or be subject to immediate removal by the city. In addition to other

remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. This Code section 16-28A.012, and all code sections referenced in this section, shall be enforced by the commissioner of public works or that commissioner's designee.

(Ord. No. 2015-54(15-O-1394), § 1(Att. A), 11-11-15.)

Sec. 16-28A.013. - Procedures.

(a) Sign Permits:

(i) No sign shall be placed, constructed, erected or modified without first securing a sign permit from the director in accordance with these procedures, except for those signs exempted by the specific language of this chapter 28A.

(ii) No sign permit of any kind shall be issued for an existing or proposed sign unless such sign meets all of the requirements of this chapter, Part 16 of the Code of Ordinances, and all other applicable requirements of the Code of Ordinances or is a lawful nonconforming sign under this chapter.

(iii) A sign permit shall be required for a change of materials or for the substitution of panels or faces on a billboard sign to verify that the sign is structurally sound, is at a location, and is of a size and height, which meets the requirements for a lawful sign under this part.

(iv) No permit will be issued for any change to a legally nonconforming sign that enlarges or expands the degree of nonconformity, provided however that repairs and normal maintenance of legally nonconforming signs including the repairs and maintenance necessary to allow conversion of the sign face for the utilization of changing sign technology shall not be considered an expansion of the degree of nonconformity. An existing changing sign that is legally non-conforming shall be allowed to utilize this provision for purpose of installing a different changing sign technology.

(b) Permit Procedures: The following procedures shall govern the application for and issuance of all sign permits under this chapter 28A.

(1) All applications for sign permits shall be submitted to the director on an application form provided by the director. Each application shall be accompanied by the applicable fees established by the governing authority from time to time. No application shall be deemed to be accepted by the director unless all fees are paid and all information reasonably required by the director is provided by the applicant. All applications for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings showing the dimensions, design, structure, and location of each particular sign, as well as total wall area dimensions when necessary to determine compliance with this chapter 28A. One application and permit may include multiple signs on the same lot where said multiple signs are otherwise permissible by this chapter 28A.

(2) All applications for sign permits shall be either issued or denied within 30 days of their submission. If the sign permit is neither issued nor denied within this time period, the applicant may at their own risk erect a sign meeting the requirements of this part as if the application had been granted. The director is authorized, however, upon determination that a sign, erected for any reason, is not in compliance with these regulations, to take the appropriate action necessary to cause it to come into compliance or to be removed if illegal. After examination of an application, including an application which has been filed for more than 30 days, the director shall either:

(a) Issue the sign permit if the sign(s) conform(s) in all respects to the requirements of this chapter and all other applicable City Code provisions; or

(b) Deny the sign permit if the sign(s) fail(s) in any way to conform to the requirements of this chapter or any other applicable City Code provision. In case of a denial, the director shall notify the applicant in writing at the address set forth in the application.

(3) No illegal display, feature, attribute or other part of any otherwise permitted sign shall be considered legally non-conforming and no illegal sign shall become legally non-conforming by reason of failure of the director to deny the permit within 30 days of the submission of the application.

(c) *Inspections:* The director shall, at any time deemed necessary, inspect each sign regulated by this chapter 28A to ensure conformity with these regulations and other ordinances of the city. The director is hereby authorized and empowered to revoke any permit issued upon failure of the holder thereof to comply with any provision of this chapter 28A or other ordinances of the city, or to take other action lawful and necessary to assure correction of violations.

(d) *Lapse of Sign Permit:* A sign permit shall be deemed to lapse automatically and hence be deemed illegal if the business license for the premises lapses, is revoked or is not renewed. A sign permit shall also lapse if the activity on the premises is discontinued for a period of 180 days or more and is not renewed within 30 days of a notice to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed.

(e) *Permits for Portable Signs:* Portable signs shall be allowed only in accordance with the provisions of section 16-28A.007(a) and only upon the issuance of a sign permit, which shall be subject to the following additional requirements:

(1) A sign permit shall allow the use of a portable sign only for one single continuous specified 30-day period.

(2) Only one sign permit for a portable sign shall be issued to the same business license holder on the same lot for the same business.

(3) A portable sign shall be allowed only in the districts specified in section 16-28A.007(a) and shall be subject to all other requirements for portable signs as set forth in this chapter, in Part 16, and in any other applicable Code section.

(Ord. No. 2015-54(15-O-1394), § 1(Att. A), 11-11-15)

Sec. 16-28A.014. - Nonconforming signs.

(a) *Policy:* It is the policy of the city to encourage that all signs within the city be brought into compliance with the terms and requirements of this chapter and of Part 16 of the Code of Ordinances of the City of Atlanta.

(b) *Nonconforming Sign Regulations:*

(1) A nonconforming sign may remain in use subject to the requirements of chapter 24 of Part 16, and the following requirements, as well as any other applicable requirements of the Code of Ordinances of the City of Atlanta. Said nonconforming sign shall be deemed to be "structures and premises in combination" for purposes of regulation under chapter 24 of Part 16.

(2) Any nonconforming sign which is not used or leased for a continuous period of one year shall not be reused for sign purposes unless and until it fully conforms with the terms and requirements of this chapter 28A.

(3) The substitution or modification of panels or faces on nonconforming signs and repainting, refacing or repostering nonconforming sign shall be permitted to the extent authorized by section 16-28A.013 and chapter 24 of Part 16. Repairs and normal maintenance of nonconforming signs, such as repainting, electrical repairs, and neon tubing repairs, shall be permitted, to the extent authorized by this chapter 28A, and chapter 24 of Part 16, provided it does not enlarge or expand the degree of nonconformity.

(Ord. No. 2015-54(15-O-1394), § 1(Att. A), 11-11-15)

If you have any questions, feel free to contact the Office of Municipal Clerk Election Line at (404) 330-6500 or send an email to atlantaelections@atlantaga.gov.



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